

The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South

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Review

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Law in the South

When one thinks of the history of law and governance in the South, a dynamic, localized system where ordinary people had a part to play in keeping “the peace” is certainly not what first springs to mind. Yet Laura F. Edwards’s fascinating study, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*, argues exactly that. Mining the court records of six regions in North and South Carolina from 1787 to 1840, Edwards examines the coexistence of and tensions between state law, which advocated protection of the rights of legally recognized individuals, and localized law, which functioned solely to maintain the peace.

Edwards argues that localized and state law coexisted in the period between 1788 and 1840, “operating simultaneously but largely apart” (3). State law oversaw private matters involving property. Its proponents were political leaders and legal professionals who championed the protection of rights through a “unified body of law and a centralized institutional structure to enforce it” (4). The legal aberrations that arose in state law, Edwards contends, were carefully weeded out by its caretakers—resulting in the production of a neat set of statutes, appellate decisions and digests which set out a legal framework that appeared to develop logically over time. This tidy documentary record, she argues, has led to the widespread historiographical belief that state law reigned supreme over its marginalized local counterpart. Repositioning localized law, then, becomes the chief aim of Edwards’s study. In contrast to its state counterpart, localized law relied on an understanding of the relationships between, and standing of, members of the community. It was directly tied to place, time, and the people involved. It happened not in impressive courthouses, but through information

conveyed orally in houses, on porches, and in fields. As a result, Edwards notes, the surviving record is inconsistent and messy; so contextual that it is hard to make the general assumptions that appear so cut and dry in the annals of state law. In seeking to restore social order, localized law pervaded the lives of ordinary people, and as such, gave each a part to play maintaining "the peace." "Southerners often talked about taking issues to 'law,' a process, not to 'the law,' a body of knowledge that would determine the outcome," Edwards explains (27).

A detailed exploration of localized and state law comprises parts two and three of Edwards's study. She begins with localized law, which was practiced "on the ground" to maintain the "ideal order of the metaphorical public body" (4). Edwards argues that in the post-revolutionary period, southerners believed that the centralization of legal authority would remove the law from the people, prioritizing "abstractions of law over the practice of justice" (60). Instead, they favored a process-driven system based upon restoring social order in a contextualized setting. "People constituted the legal process," notes Edwards, "and law was what emerged through their interactions with one another" (65). There were no hard and fast rights or rules—"the peace" was determined by time, place, custom and context. It also considered the "credit" of those involved, which was based upon fixed categories such as race, class, gender and age, and more fluid elements such as family history and family connections. Breaches of the peace were not represented as crimes against individuals but as public matters that threatened the social order of the community. Edwards argues that the task of identifying crimes, gathering evidence, bringing complaints to magistrates, and testifying at hearings rested with the people, and as such, the community both owned and participated in the legal process. Free white men may have held a privileged place in this system but they were still accountable to "the peace." In this context, domestic violence was not regarded as a crime against women, but as a breach in the "patriarchal household of the peace" (109). Officers, Edwards argues, were able to follow up on individual complaints made by women or slaves on the basis that they constituted a disruption of the social order. One decision against an adult white male could occur because it was a decision about a particular individual's involvement in a specific incident—and did not create a precedent that would apply to future cases of a similar nature. Similarly, claims to property in the localized setting depended largely on the establishment of credit and "the relationships that defined the good order of the peace" (139). Husbands, for instance, assumed control over their wives' property holdings on the basis of privilege, not rights. If a husband proved unworthy of

the trust placed in him, Edwards notes, a wife and her family reserved the right to take back the property or release the errant husband from his managerial role.

While localized law allowed the community to play their part in maintaining the peace, state law operated on an entirely different premise. In part three of her study, Edwards examines the emergence of state law as a competitor of its localized counterpart. After generating a detailed body of statutes and appellate decisions, lawmakers began extending the legal principles governing property law into public issues previously dealt with by localized law. Throughout the 1820s, state reformers chipped away at the logic of "the peace" and the ties that bound ordinary people to the law. Edwards argues that state law turned people into legal abstractions, casting free white male property holders as "rights holders" and all others as "subjects of individual patriarchs rather than subjects of the peace" (223). Slaves were defined as property, and free blacks, women and slaves were stripped of their access to and participation in the legal process. The peace no longer meant the restoration of social order on a case-by-case basis. Instead, precedent and property ownership became the "basis for claiming rights, the model for them, and the means for mobilizing the peace" (238). Matters involving domestic violence were categorized as "private," placing women and slaves at the mercy of the arbitrary and absolute power of the rights-bearing head of household. Edwards contends that state law's "discourse of rights" proved irresistible to white adult men, who threw off their localized role as subjects to embrace a "privileged place within the governing order" (273). In both the Nullification Crisis and in the party politics of the Jacksonian period, rights discourse was drawn upon to unify the white male voting constituency and protect their unconditional authority over property and their subordinates.

The People and Their Peace is a complex yet deeply rewarding work, meticulously researched and carefully executed. Edwards's ability to flesh out the agency of ordinary people in the localized legal processes of the post-revolutionary South reminds us that the law and its institutions were not a "constant, unchanging background against which important, meaningful conflicts played out," but rather a dynamic set of contradictory and often competing elements (30). The significance of Edwards's findings both enrich and complicate our understanding of southern society not only in the post-revolutionary period but throughout the nineteenth century, making *The People and Their Peace* a valuable addition to the bookshelves of all students and scholars of American history.

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